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Joseph B. Taphorn
8 Scenic Drive
Hagan Farms
Poughkeepsie, NY 12603

In re Application of
FERNANDEZ, JOYCE
Application No.: 10/683,616
Filed: October 14, 2003

: DECISION ON
: PETITION
: UNDER
: 37 CFR 1.181

This is a decision on the petition filed May 30, 2006 under 37 CFR 1.181 requesting supervisory review of the final office action mailed February 24, 2006 and the advisory actions mailed March 31, 2006 and April 26, 2006. Petitioner requested reconsideration of the finality of the February 24, 2006 office action in the amendments after final received on March 31, 2006 and April 7, 2006.

The petition is granted.

Petitioner requests that 1) the finality of the office action mailed February 24, 2006 be set aside; 2) the Examiner's refusal to enter, per the Advisory action mailed March 31, 2006, the amendments proposed in the Amendment After Final received on March 21, 2006 be overruled; and 3) the Examiner's refusal to enter, per the Advisory Action mailed April 26, 2006, the amendments proposed in the Second Amendment After Final received on April 7, 2006 be overruled.

In regard to the finality of the office action, the rejection of at least claim 7, Hathaway in view of Cordisco was not necessitated by amendment. It is noted that claim 7 was amended only in the preamble and the treatment of the claim with regard to the structure of the device did not change. As such, the February 24, 2006 final office action is premature and thus the finality of the action is hereby withdrawn. Since the finality is being withdrawn, the amendments after final received on March 21, 2006 and April 7, 2006 are entered as a matter of right. The examiner will act on the claims of the last submitted amendment of April 7, 2006.

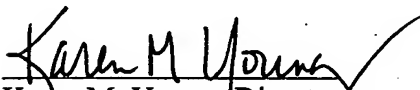
In regard to the refusal to enter the amendments after final, since the February 24, 2006 final office action was found to be premature and the amendments are being entered as a matter

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of right, petitioner's arguments to the refusal of entry of the amendments in the Advisory actions are dismissed as moot.

The application is being forwarded to the technical support staff to withdraw the finality of the office action dated February 24, 2006 and to enter the amendments after final dated March 21, 2006 and April 7, 2006. The application will then be forwarded to the examiner for an action not inconsistent with this decision.

Any questions regarding this decision should be directed to Special Program Examiner, Linda Sholl, at 571-272-4391.


Karen M. Young, Director
Technology Center 3700